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UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

JAMES DIXON,

Plaintiff,

v.

CITY OF FORKS,

Defendant.

Case No. C08-5189 FDB

ORDER DENYING PLAINTIFF'S
MOTION TO STRIKE AND
EXCLUDE DEFENDANT'S
UNTIMELY DISCLOSED
TESTIMONY AND EVIDENCE

This matter comes before the Court on Plaintiff's motion to exclude certain testimony and evidence alleged to have been untimely disclosed. The Court, having reviewed all materials submitted by the parties and relied upon for authority, is fully informed and hereby denies the motion for the reasons stated below.

This is an action by Plaintiff James Dixon against Defendant City of Forks alleging violations of the Fair Labor Standards Act (FLSA), 29 U.S.C. § 201 *et. seq.*, and Washington's Minimum Wage Act (MWA), 49.46 RCW, for failure to compensate Plaintiff for off-shift/overtime care and maintenance of his police dog while employed as a police officer for the City of Forks.

Plaintiff seeks to exclude the testimony of Chief Bruce Hall and Nerissa Davis. Plaintiff

1 objects to the testimony of these witnesses on the basis of untimely disclosure. The Defendant
2 counters that the disclosures were timely and properly supplemented.

3 The initial discovery cut-off date in this matter was June 1, 2009. On June 30, 2009, the
4 Defendant City of Forks provided supplemental disclosure naming Chief Hall and Ms. Davis as
5 individuals with discoverable information. Prior to Defendant's disclosures, this Court had entered
6 a June 3, 2009 Minute Order providing: "The Deadline for filing discovery and the settlement
7 report is extended to June 30, 2009." Contrary to Plaintiff's understanding, this is not a limited
8 order, but a general extension of discovery. Accordingly, Plaintiff's argument that the disclosures
9 were untimely is without merit.

10 Conclusion


11 For the above stated reasons, Plaintiff's motion to exclude untimely disclosed witness
12 testimony and evidence is denied.

13 ACCORDINGLY:

14 IT IS ORDERED:

15 Plaintiff's Motion to Strike and Exclude Defendant's Untimely disclosed Testimony and
16 Evidence [Dkt. # 36] is **DENIED**.

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18 DATED this 20th day of July, 2009.

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FRANKLIN D. BURGESS
UNITED STATES DISTRICT JUDGE